

**SPECIAL ORDINANCE NO. 14, 2014**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

=====

Common Address of lots to be rezoned:

3404 S. 7<sup>th</sup> Street, Terre Haute, IN 47802

\_\_\_\_\_

Rezone From: R-1 Single Family Residence District

Rezone To: C-2 Community Commerce District

Proposed Use: Physical Therapy Office

Name of Owner: Fred H. Simmons Jr. & Marilyn R. Simmons

Address of Owner: 3404 S. 7<sup>th</sup> Street  
Terre Haute, IN 47802

Phone Number of Owner (812) 232-1138

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery , P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Neil Garrison

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

\_\_\_\_\_

FILED  
MAY 02 2014  
CITY CLERK

**SPECIAL ORDINANCE NO. 14, 2014**

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:


Lots Number Eighty-Five (85) and Eighty-Six (86) in the Plat of Davis Gardens a Subdivision of part of the North West quarter of Section Three (3), Township Eleven (11) North, Range Nine (9) West, as shown by recorded plat thereof, recorded in Plat Record 11, page 37, records of Recorder's Office of Vigo County, Indiana.

(Commonly known as 3404 S. 7th Street, Terre Haute, Indiana 47802.)

be and the same is, hereby established as a C-2 Community Commerce District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member, \_\_\_\_\_

  
Neil Garrison, Councilperson

Passed in open Council this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Amy Auler, President

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

**PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

and THE PRESIDENT AND MEMBERS OF THE AREA PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Fred H. Simmons Jr. and Marilyn R. Simmons, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots Number Eighty-Five (85) and Eighty-Six (86) in the Plat of Davis Gardens a Subdivision of part of the North West quarter of Section Three (3), Township Eleven (11) North, Range Nine (9) West, as shown by recorded plat thereof, recorded in Plat Record 11, page 37, records of Recorder's Office of Vigo County, Indiana.

(Commonly known as 3404 S. 7th Street, Terre Haute, Indiana 47802.)

The Petitioners are informed and believe that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-1 Single Family Residential District.

Your Petitioners would respectfully state that the real estate is now a commercial building which has been used over thirty (30) years as a dentist office. The Petitioner intends to sell the real estate for the use of a physical therapy office.

Your Petitioner would request that the real estate described herein shall be zoned as a C-2 Community Commerce District to allow for the use as proposed by Petitioners. Your Petitioners would allege that the C-2 Community Commerce District would not alter the general characteristics of this neighborhood.

Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-2 Community Commerce District of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioners have executed this Petition to Rezone Real Property, this 2<sup>nd</sup> day of May, 2014.

**PETITIONERS:**



Fred H. Simmons, Jr.



Marilyn R. Simmons

WRIGHT, SHAGLEY & LOWERY, P.C.

500 Ohio Street

PO Box 9849

Terre Haute, IN 47808

Phone: (812) 232-3388

BY: 

Richard J. Shagley, #257-84  
Attorneys for Petitioners

The owner and mailing address: Fred H. Simmons, Jr. and Marilyn R. Simmons, 3404 S. 7<sup>th</sup> Street, Terre Haute, IN 47802.

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

# SITE PLAN

Date Created: 5/2/2014



<b>Parcel ID</b>	84-09-03-152-002.000-005	<b>Alternate ID</b>	119-09-03-152-002	<b>Owner Address</b>	SIMMONS FRED H JR & MARILYN R
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Com Medical clinic/offices		3404 S 7TH STREET
<b>Property Address</b>	3404 S 7TH ST TERRE HAUTE	<b>Acreage</b>	n/a		TERRE HAUTE, IN 47802
<b>District</b>	005 HONEY CREEK				
<b>Brief Tax Description</b>	DAVIS GARDENS (3402 & 3404 S 7TH ST) MISC-209/1251 & D-372/155-1 3-11-9 LOTS 85-86 (Note: Not to be used on legal documents)				

Last Data Upload: 5/1/2014 11:39:41 PM

SPECIAL ORDINANCE No. 14, 2014

C-2 COMMUNITY COMMERCE DISTRICT (FROM R-1)



developed by  
The Schneider Corporation  
www.schneidercorp.com

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF VIGO       )

**AFFIDAVIT**

Come now, Fred H. Simmons, Jr. and Marilyn R. Simmons, being duly sworn upon their oaths, depose and say:

1. That Fred H. Simmons, Jr. and Marilyn R. Simmons are the fee simple owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lots Number Eighty-Five (85) and Eighty-Six (86) in the Plat of Davis Gardens a Subdivision of part of the North West quarter of Section Three (3), Township Eleven (11) North, Range Nine (9) West, as shown by recorded plat thereof, recorded in Plat Record 11, page 37, records of Recorder's Office of Vigo County, Indiana.

(Commonly known as 3404 S. 7th Street, Terre Haute, Indiana 47802.)

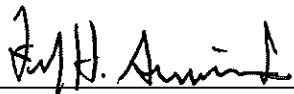
2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Fred H. Simmons, Jr. and Marilyn R. Simmons is attached hereto and made a part hereof and marked as Exhibit A.

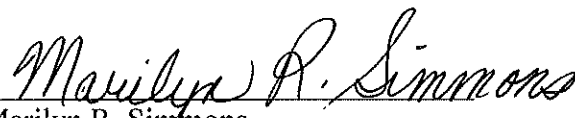
3. That Affiant makes this Affidavit for the sole purpose of affirming that Fred H. Simmons, Jr. and Marilyn R. Simmons are the owners of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Fred H. Simmons, Jr. and Marilyn R. Simmons.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this \_\_\_\_\_ day of May, 2014.


**PETITIONERS:**

  
\_\_\_\_\_  
Fred H. Simmons, Jr.

  
\_\_\_\_\_  
Marilyn R. Simmons

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 2 day of May, 2014.

  
\_\_\_\_\_, Notary Public

My Commission expires:

1-20-2018

My County of Residence:

Clay

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

82-248-8369

155

Duly entered for taxation this 29 day of August 1977

# Warranty Deed

Received for record this 29 day of August 1977 at 9 o'clock P. M. and recorded in Book No. 372 Page 155-1

Auditors Seal  
*Frank B. Warkner*

*William Brantley*

Auditor *Vigo* County THIS INDENTURE WITNESSETH Recorder *Vigo* County

That THOMAS E. DILL and DELLA MAXINE DILL, husband and wife,

of *Vigo* County, in the State of *Indiana*  
CONVEY AND WARRANT to FRED H. SIMMONS, JR. and MARILYN R. SIMMONS,  
husband and wife,

of *Vigo* County, in the State of *Indiana*  
for and in consideration of the sum of one dollar and other valuable consideration,  
the receipt whereof is hereby acknowledged, the following described Real Estate in *Vigo*  
County in the State of Indiana, to-wit:

Lots Number Eighty-Five (85) and Eighty Six (86) in the Plat of Davis Gardens a Subdivision of part of the North West quarter of Section Three (3), Township Eleven (11) North, Range Nine (9) West, as shown by recorded plat thereof, recorded in Plat Record 11, page 37, records of Recorder's Office of Vigo County, Indiana.

Taxes pro-rated to date.

EXHIBIT

A

tabbles

IN WITNESS WHEREOF The said grantor<sup>s</sup> above named

have hereunto set their hand and seal this 26th day of August 1977.  
Thomas E. Dill (Seal) Della Maxine Dill (Seal)  
Thomas E. Dill (Seal) Della Maxine Dill (Seal)  
(Seal) (Seal)

STATE OF INDIANA Vigo COUNTY ss.

Before me, the undersigned a Notary Public in and for said County and State, this 26th day of August A.D. 1977, personally appeared the within named THOMAS E. DILL and DELLA MAXINE DILL, husband and wife,

Grantors  
in the above conveyance and acknowledged the execution of the same to be their voluntary act and deed.

IN WITNESS WHEREOF I have hereunto subscribed my name and affixed my official seal.

Commission expires January 1, 1980.

Maille (Seal) JAMES A. HOUSTON Notary Public

This instrument prepared by This instrument was prepared by LOUIS F. NATHAN  
Attorney at Law, 514 Old State, Terre Haute, Indiana

**Receipt**

The following was paid to the City of Terre Haute, Controller's Office.

Date: 5/2/2014

Name: Fred Simmons

Reason: \_\_\_\_\_

Payroll

Ck# 67796

Cash: \_\_\_\_\_

Check: 45.00

Credit: \_\_\_\_\_

Total: 45.00

TERRE HAUTE, IN  
**PAID**

MAY - 2 2014

**CONTROLLER**

Received By: E Allen / YG